



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 28 1996

Mr. Paul F. Wieneskie  
Cribbs & McFarland  
Attorneys at Law  
P.O. Box 13060  
Arlington, Texas 76094-0060

OR96-0261

Dear Mr. Wieneskie:

As counsel for the City of Euless, Texas (the "city"), you ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35803.

The city received a request for a copy of warrant 94-099P and "all other related or supporting documents included in this matter." You assert that the requested information is excepted from required public disclosure based on section 552.108 of the Government Code.

Section 552.108(a) of the Government Code excepts from required public disclosure "a record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime." This exception applies while an incident involving allegedly criminal conduct is under active investigation or prosecution. See Open Records Decision No. 372 (1983).

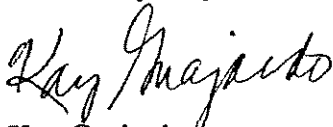
You inform us that although no arrest has been made, the requested information pertains to an ongoing, active criminal investigation. We accordingly conclude that the city may withhold the requested information pursuant to section 552.108 with the following exception.

The affidavit to support the search warrant is made public by statute if it has been executed. See Code Crim. Proc art. 1801(b). Therefore, the city may not withhold an

executed search warrant from required public disclosure under section 552.108 of the Government Code.<sup>1</sup>

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Records Division

KHG/ch

Ref.: ID# 35803

Enclosures: Submitted documents

cc: Mr. James Jay Seltzer  
Watergate Towers, Tenth Floor  
2200 Powell Street  
Emeryville, California 94608  
(w/o enclosures)

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<sup>1</sup>We note that upon arrest, the magistrate must inform the arrested person of the affidavit to support the arrest. See Code Crim. Proc. art. 15.17(a). The suspect in this case, of course, has not been arrested.